



Reprinted  
January 31, 2014

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## HOUSE BILL No. 1204

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DIGEST OF HB 1204 (Updated January 30, 2014 1:23 pm - DI 92)

**Citations Affected:** IC 16-39; IC 20-33; IC 33-37; IC 34-30.

**Synopsis:** Various education and school matters. Provides that if the parent, guardian, or court appointed special guardian of a child enrolled in a school requests a health care provider to disclose certain mental health information to the child's school, the health care provider shall provide the child's school the information. Prescribes the manner in which the information must be released and requires a principal or school leader to sign a confidentiality agreement concerning the release of the information. Prohibits a superintendent or school leader from excusing or excluding a student who was found to be mentally or physically unfit for school attendance if a physician, psychologist, or psychiatrist certifies that the student is fit for school attendance. Provides that the witness fee for an employee of a school district is \$100. Provides civil immunity for a school, school employee, or school board for civil damages that are the result of: (1) an injury to a child or family members of a child if the injury is the result of a student's mental health issue that has not been disclosed to the school by the student's parent or guardian; or (2) referrals the school made or services the school offered concerning evaluations or treatment of the student's health.

**Effective:** July 1, 2014.

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## Huston, Battles

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January 14, 2014, read first time and referred to Committee on Education.  
January 28, 2014, amended, reported — Do Pass.  
January 30, 2014, read second time, amended, ordered engrossed.

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HB 1204—LS 6584/DI 107





Reprinted  
January 31, 2014

Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

## HOUSE BILL No. 1204

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A BILL FOR AN ACT to amend the Indiana Code concerning education.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1       SECTION 1. IC 16-39-4-2 IS AMENDED TO READ AS  
2       FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. (a) As used in this  
3       section, "primary caregiver" means an individual who provides for the  
4       physical, emotional, and social needs of another individual who cannot  
5       provide for the other individual's own needs.  
6       (b) Upon the written request of a patient's:  
7       (1) spouse;  
8       (2) parent if:  
9       (A) the patient does not have a spouse; or  
10       (B) the parent is the primary caregiver to the patient;  
11       (3) adult child if the patient has neither a spouse nor a parent;  
12       (4) sibling if the patient has neither a spouse, a parent, nor an  
13       adult child; or  
14       (5) guardian, guardian ad litem, or court appointed special  
15       guardian;  
16       who is involved in the planning, provision, and monitoring of mental

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health services delivered to the patient and the written consent of the treating physician for the patient, the provider shall provide the individual described in subdivision (1), (2), (3), (4), or (5) with the information described in section 3 of this chapter.

(c) Upon the written request of the parent, guardian, or court appointed special guardian who is involved in the planning, provision, and monitoring of the mental health of a child enrolled in a school, the provider shall provide the child's school principal or school leader with information described in section 3 of this chapter without charge.

(d) A parent, guardian, guardian ad litem, or court appointed special guardian who prepares a written request under this section shall sign an authorization for the release of mental health records, as may be requested by the provider in satisfaction of any requirements under the Health Insurance Portability and Accountability Act (42 U.S.C. 201 et seq., as amended and including governing regulations) and state law. A provider that discloses information and records to a school principal or school leader as requested under this chapter is immune from civil, criminal, and administrative liability for the disclosure to the school principal or school leader. The authorization required by the provider may confirm the provider's immunity.

SECTION 2. IC 16-39-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 3. (a) If a provider has received a written request under section 2 ~~(b)~~ of this chapter, the provider shall provide **the following information to** the individual who made the request **or if the request is made under section 2(c) of this chapter, the patient's school principal or school leader: with the following information:**

- (1) A summary of the patient's diagnosis.
- (2) A summary of the information required to be given to the patient under IC 12-27-6-2 and IC 12-27-6-3.
- (3) The types of medication that have been prescribed for the patient.
- (4) A summary of the patient's prognosis.

**If the information is provided after a request is made under section 2(c) of this chapter, the provider shall limit the information provided to information concerning the patient's mental health. The school principal shall keep the information the principal receives under this section confidential.**

**(b) A school principal or school leader who receives information and mental health records under this chapter shall sign a**



1 confidentiality agreement prescribed by the provider confirming  
 2 that the information and mental health records released by the  
 3 provider may not be disclosed by the principal except to the  
 4 minimum necessary extent required to:

5 (1) inform necessary school staff of the principal's or school  
 6 leader's decision regarding the student's fitness for school  
 7 attendance and participation in services; or

8 (2) satisfy duties imposed upon the principal or school leader  
 9 by law.

10 SECTION 3. IC 20-33-2-46, AS ADDED BY P.L.1-2005,  
 11 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 12 JULY 1, 2014]: Sec. 46. (a) ~~With the approval of the state board,~~  
 13 **Except as provided in subsection (d),** a superintendent **or school**  
 14 **leader** may exclude or excuse a student found mentally or physically  
 15 unfit for school attendance. An exclusion or excuse under this section  
 16 is valid only for the school year during which it is issued **and shall not**  
 17 **violate a student's right to a free and appropriate public education**  
 18 **under federal law.**

19 ~~(b) A superintendent's action under this section must be in~~  
 20 ~~accordance with limitations and regulations established by the state~~  
 21 ~~board concerning the procedures and requirements for the complete~~  
 22 ~~examination of students.~~

23 ~~(c)~~ **(b)** A student may not be compelled to undergo any examination  
 24 or treatment under this chapter when the student's parent objects on  
 25 religious grounds, which consists of a good faith reliance on spiritual  
 26 means or prayer for healing. The objection is not effective unless it is:

27 (1) made in writing;

28 (2) signed by the student's parent; and

29 (3) delivered to the student's teacher or to the individual who  
 30 might order an examination or treatment absent the objection.

31 ~~A student may not be excluded under this section except as provided~~  
 32 ~~under IC 20-33-8.~~

33 **(c) If a physician, psychologist, or psychiatrist certifies that a**  
 34 **student is fit for school attendance, the superintendent or school**  
 35 **leader may not exclude or excuse that student.**

36 SECTION 4. IC 33-37-10-2 IS AMENDED TO READ AS  
 37 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. (a) **Except as**  
 38 **provided in section 3.5 of this chapter,** a witness in a criminal action  
 39 may receive a fee if the witness:

40 (1) is summoned by the state;

41 (2) is named on the indictment or information; and

42 (3) testifies under oath to a material fact in aid of the prosecution.



(b) A fee paid under subsection (a) is the sum of the following:

(1) An amount for mileage at the mileage rate paid to state officers for each mile necessarily traveled to and from the court.

(2) For each day of attendance in court equal to:

(A) fifteen dollars (\$15) for witnesses subpoenaed under IC 35-37-5-4; or

(B) five dollars (\$5) for all other witnesses.

SECTION 5. IC 33-37-10-3, AS AMENDED BY P.L.1-2007, SECTION 222, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 3. **Except as provided in section 3.5 of this chapter**, a witness in an action listed in IC 33-37-4-2, IC 33-37-4-3, IC 33-37-4-4, IC 33-37-4-6, and IC 33-37-4-7 is entitled to the sum of the following:

(1) An amount for mileage at the mileage rate paid to state officers for each mile necessarily traveled to and from the court.

(2) Five dollars (\$5) for each day of attendance in court.

SECTION 6. IC 33-37-10-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 3.5. A witness in any civil or criminal action who is employed by a school in Indiana is entitled to the sum of the following if the witness is called to testify on a regular school day of the school district that employs the witness:**

(1) An amount for mileage at the mileage rate paid to state officers for each mile necessarily traveled to and from the court.

(2) One hundred dollars (\$100) for each day of attendance in court.

SECTION 7. IC 34-30-28 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]:

**Chapter 28. Immunity for Schools, School Employees, and School Boards Concerning Student Health**

**Sec. 1. A school, school employee, or school board is not liable for civil damages as a result of:**

(1) an injury to a child or the family members of a child if the injury is a result of a student's mental health issue that has not been disclosed to the school by the parents or guardian; or

(2) any referrals the school made or services the school offered concerning evaluations or treatment of the student's health, including mental health.



## COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred House Bill 1204, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 5, after "guardian," delete "guardian".

Page 2, line 6, delete "ad litem,".

Page 2, line 9, after "principal" insert "**or school leader**".

Page 2, line 9, delete "." and insert "**without charge**".

Page 2, line 15, delete ":" and insert "**or school leader**".

Page 2, line 33, after "superintendent" insert "**or school leader**".

Page 2, line 36, delete "." and insert "**and shall not violate a student's right to a free and appropriate public education under federal law**".

Page 2, strike lines 37 through 40.

Page 2, line 41, strike "(c)" and insert "**(b)**".

Page 3, strike lines 7 through 8.

Page 3, line 9, delete "(d)" and insert "**(c)**".

Page 3, line 10, after "superintendent" insert "**or school leader**".

Page 3, line 38, delete "district (as defined in)".

Page 3, line 39, delete "IC 36-1-2-17)" and insert "**in Indiana**".

Page 4, delete lines 12 through 15, begin a new line block indented and insert:

**"(1) an injury to a child or the family members of a child if the injury is a result of a student's mental health issue that has not been disclosed to the school by the parents or guardian; or"**

and when so amended that said bill do pass.

(Reference is to HB 1204 as introduced.)

BEHNING, Chair

Committee Vote: yeas 11, nays 1.



## HOUSE MOTION

Mr. Speaker: I move that House Bill 1204 be amended to read as follows:

Page 2, between lines 10 and 11, begin a new paragraph and insert:

**"(d) A parent, guardian, guardian ad litem, or court appointed special guardian who prepares a written request under this section shall sign an authorization for the release of mental health records, as may be requested by the provider in satisfaction of any requirements under the Health Insurance Portability and Accountability Act (42 U.S.C. 201 et seq., as amended and including governing regulations) and state law. A provider that discloses information and records to a school principal or school leader as requested under this chapter is immune from civil, criminal, and administrative liability for the disclosure to the school principal or school leader. The authorization required by the provider may confirm the provider's immunity."**

Page 2, line 12, after "3." insert **"(a)"**.

Page 2, line 28, delete ", and the principal may use" and insert ".".

Page 2, delete lines 29 through 30, begin a new paragraph and insert:

**"(b) A school principal or school leader who receives information and mental health records under this chapter shall sign a confidentiality agreement prescribed by the provider confirming that the information and mental health records released by the provider may not be disclosed by the principal except to the minimum necessary extent required to:**

- (1) inform necessary school staff of the principal's or school leader's decision regarding the student's fitness for school attendance and participation in services; or**
- (2) satisfy duties imposed upon the principal or school leader by law."**

(Reference is to HB 1204 as printed January 28, 2014.)

FORESTAL

